REMARKS

Claims 1-15 are presented for examination. Claim 2 has been amended to correct a typo (missing word "of"). Claim 14 has been amended to delete the word "distribution" in order to address the rejection under 35 U.S.C. 112.

Claims 1-15 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. In particular, the Examiner mentions claims 1, 2 and 14.

Claim 14 has been corrected to address the antecedent issues raised by the Examiner.

With respect to claims 1 and 2, the rejection is respectfully traversed for the following reasons.

The pivotal issue generated by a rejection under the second paragraph of 35 U.S.C. § 112 is whether one having ordinary skill in the art, with the supporting specification in hand, would be able to ascertain the scope of the claims with reasonable precision. ***In re Moore***, 439 F.2d 1232, 169 USPQ 236 (CCPA 1971); ***In re Hammack***, 427 F.2d 1378, 166 USPQ 204 (CCPA 1970). It should be emphasized that unpatented claims are reasonably construed in light of the supporting specification. ***In re Okuzawa***, 537 F.2d 545, 190 USPQ 464 (CCPA 1976); ***In re Royka***, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Moreover, reasonable precision is all that is required. See, for example, ***U.S. v. Telectronics Inc.***, 857 F.2d 778, 8 USPQ2d 1217; ***Hybritech, Inc, v. Monoclonal Antiobodies, Inc.***, 802 F.2d 1367, 231 USPQ 81 (Fed. Cir. 1986); ***In re Kroekel***, 504 F.2d 1143, 183 USPQ 610 (CCPA 1974).

A decision on whether a claim is invalid under this section of the statute requires a determination of whether those skilled in the art would understand what is claimed when the claim is read in light of the specification, ***Seattle Box Co. v Industrial Crating & Packing***, 731 F.2d 381, 385, 221 U.S.P.Q. 568, 574 (Fed. Cir. 1984). Claim language is viewed not in a

vacuum, but in light of the teachings of the prior art and of the application disclosure as it would be interpreted by one possessing the ordinary level of skill in the art. ***In re Johnson***, 558 F.2d 1008, 194 USPQ 187 (CCPA 1977); ***In re Moore, supra.***

With the above legal precedents in mind, Applicant respectfully points out that the Examiner did not explain why one having ordinary skill in the art, armed with the supporting specification, would have been confused as to the scope of claims 1 and 2 when read in light of the disclosure.

Claim 1 recites that in a system for processing orders supported by multiple retail networks and comprising a client terminal for sending a request providing indication of an item being purchased and indication of a point of sale selected for delivery of the item, together with an identifier of a purchaser:

a server configured for receiving the request and enabling the purchaser to locate a retail network node at which the requested item is available, the node being provided outside a local retail network corresponding to the point of sale selected for delivery, a path being arranged for routing the item from the node to the selected point of sale.

Claim 2 recites that in a retail network comprising at least one district network including a district node and multiple regional networks, each having a regional node and multiple points of sale, a system for processing orders received from a client terminal capable of sending a request providing indication of an item being purchased and indication of a point of sale selected for delivery of the item, together with an identifier of a purchaser, the system comprising:

a first server associated with a selected node of the retail network located outside a regional network having the point of sale selected for delivery, and configured for receiving the

request if the item is not available in the regional network, the first server being further configured for arranging a delivery path for delivery the item from the selected node to the selected point of sale.

The Examiner questions the language describing the server in claim 1 and the first server in claim 2.

As disclosed in the specification and shown in FIG. 1, the claimed invention relates to a retail network having hierarchical arrangement. For example, the retail network may include multiple district retail networks DRN1-DRN3 (FIG. 1), each of which includes a district distribution node DN and multiple regional retail networks RRN. Each regional retail network RRN may include a regional node RN and multiple points of sales (POS). The POS may be a retail facility, whereas the RN may be a storage facility (see paragraphs 28 and 29).

As described in paragraph 30, the retail network may also include specialty nodes SN (FIG. 1) for selling a particular type of goods, such as automotive parts and accessories, appliances, construction materials, etc. Each specialty node SN may have a warehouse or other storage facility for storing the respective type of goods.

The retail network is associated with multiple ordering terminals OT (FIG. 2) enabling clients to order goods. Also, multiple servers S (FIGS. 1 and 2) may be arranged at various points of the retail network. For example, the servers S may be associated with district nodes DN, regional nodes RN and specialty nodes SN (paragraph 34).

As described in paragraphs 36 and 37, the ordering terminal may provide customer's access to an order support server, which performs an ordering protocol to display goods available in stock at a node of a regional network corresponding to a point of sale selected by the customer for delivery of ordered goods. If the required item is in stock at the regional node, the graphical

user interface enables the customer to place an order for delivery the required item from the regional node to a selected point of sale. If the required item is not available in the regional node's stock, the order support server may locate another node, such as a specialty node SN, at which the required item is available.

As disclosed in paragraph 39, the order may be transferred, for example, to a node server associated with the specialty node SN, where the good is available. The SN node server performs required protocols for arranging a path for delivery of the required item from the specialty node SN to the point of sale selected for delivery. The delivery path may include a link from the specialty node to a district node of a district retail network, which includes the regional network having the point of sale selected for delivery, and a link from the district node to the regional node of the respective regional network. From the regional node, the requested item is delivered to the selected point of sale.

Hence, the server recited in claim 1 may correspond, for example, to the order support server that receives the request from a purchaser and enables the purchaser to locate a retail network node at which the requested item is available. The claim specifies that this node (for example, a specialty node SN) is provided outside a local retail network corresponding to the point of sale selected for delivery. A path is arranged (e.g., by the node server associated with the SN) for routing the item from the node to the selected point of sale.

Further, the first server of claim 2 may correspond, for example, to the node server associated with the specialty node SN (which is located outside of the regional retail network RRN having the point of sale POS selected for delivery). The SN node server arranges a delivery path for delivery of the item from the SN to the POS selected for delivery.

Applicant believes that the above explanation demonstrates that one having ordinary skill in the art, with the supporting specification in hand, would be able to ascertain the scope of the claims 1 and 2 with reasonable precision.

Claims 1-15 have been rejected under 35 U.S.C. 102(b) as being anticipated by Perkowski.

This rejection is respectfully traversed for the following reasons.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically claimed invention is placed into the recognized possession of one having ordinary skill in the art. ***Dayco Prods., Inc. v. Total Containment, Inc., 329 F.3d 1358, 66 USPQ2d 1801 (Fed. Cir. 2003); Crown Operations International Ltd. v. Solutia Inc., 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002)***. When imposing a rejection under 35 U.S.C. § 102 for lack of novelty, the Examiner is required to specifically identify wherein an applied reference is asserted to identically disclose each and every feature of a claimed invention, particularly when such is not apparent as in the present case. ***In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).*** That burden has not been discharged.

In particular, the Examiner did not point out which elements of Perkowski correspond to the elements of claims 1 and 2. Also, the Examiner completely ignored the subject matter of claims 3-15.

It is noted that the Examiner indicated that the claims are rejected "as best understood."

It appears that in view of the explanation above, the Examiner will be able to properly reconsider the claimed invention.

It is respectfully submitted that Perkowski does not disclose the servers arranged and operated in the manner recited in claims 1 and 2, and does not teach or suggest the retail network having the hierarchical arrangement recited in claims 2-15.

In view of the foregoing, and in summary, claims 1-15 are considered to be in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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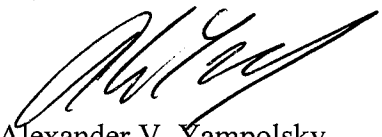

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